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PACIFIC  TELESIS.
Group - Washington

February 11, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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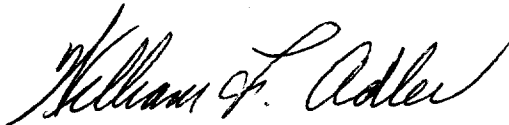
Dear Ms Searcy:

Re: *MM Docket No. 92-266 - Implementation of Sections of the Cable Television
Consumer Protection and Competition Act of 1992 - Rate Regulation*

On behalf of Pacific Telesis Group, Pacific Bell, and Nevada Bell, please find enclosed an original and six copies of their "Reply Comments" in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



Enclosures

No. of Copies rec'd 075
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEB 11 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition)
Act of 1992)
)
Rate Regulation)
_____)

MM Docket No. 92-266

REPLY COMMENTS
BY PACIFIC TELESIS GROUP, PACIFIC BELL AND NEVADA BELL

In our Comments, the Pacific Companies emphasized that the Commission must adhere to Congress' directives in fashioning a system for cable rate regulation.¹ Particularly, we noted that Congress mandated that joint and common costs of the various services offered over a cable system must be allocated properly. Proper allocation of joint and common costs will achieve one of the 1992 Act's primary purposes: to ensure that cable ratepayers do not cross-subsidize the cable industry's non-basic cable or competitive service offerings. This is similar to the Commission's goal in prescribing the Part 64 joint cost rules for telephone companies. The Commission also seeks to promote competition in the services that both cable and telephone

¹ Comments of Pacific Telesis Group, Pacific Bell and Nevada Bell, dated January 27, 1993, ("Comments").

companies will be providing. The way to do so is to promote symmetrical regulation.

Head-to-head competition between cable and telephone companies is inevitable. Telephone companies that want to provide video dialtone will be required to allocate the joint and common costs of their telephone plant used for video dialtone. The Commission's Section 214 review will require that. Yet cable companies, clearly intending to use their cable systems to provide telephony services, do not acknowledge any allocation of joint and common costs. This critical aspect of cable rate regulation was not addressed in the opening comments of the major cable companies.

NCTA's comments led the way for the industry. What is notably absent from the NCTA plan is any mechanism for allocating the joint and common costs of a system to the individual services provided over the system.² Cost of service regulation is out. Price caps, which could eliminate incentives for cross-subsidization and pass efficiency gains to consumers by means of an annual productivity factor, are ignored. Benchmarks are acceptable but there is no discussion of a variable that might capture the efficiencies of a cable system providing basic cable, cable programming and competitive services. The other large cable companies fell into line.

² Comments of the National Cable Television Association, Inc., dated January 27, 1993, ("NCTA").

Even though the cable commenters do not suggest any method to allocate joint and common costs, the cable industry is planning to provide many competitive services over their systems in the near future. Time Warner provides perhaps the best example. In its comments, Time Warner mentions its plans to provide technically sophisticated cable systems -- and specifically describes its 150-channel cable TV system in Queens, New York.³ That system will provide many channels, including 57 pay-per-view channels which are neither basic nor cable programming services. But despite the clear joint and common use of the cable system for pay-per-view, Time Warner does not mention how costs of that competitive service will be separated from basic cable and cable programming service costs.

The same day that Time Warner filed its comments in this proceeding it announced plans to build a system that is far more sophisticated than its Queens system. In Orlando, the company will build a digital, switched system that will provide not only entertainment but interactive video services, personal communications services (PCS), access to long distance telephony, video-conferencing and high-speed data transport.⁴ The juxtaposition of Time Warner's dramatic announcement and its comments is very instructive. Time Warner made clear that the purpose of the advanced system is to enter the telecommunications

³ Comments of Time Warner Entertainment Company, L.P. ("Time Warner"), dated January 27, 1993, p. 18.

⁴ Wall Street Journal, B1, January 27, 1993; Attached.

market but its comments are silent as to the allocation of costs of the competitive telephone services that will share the use of the cable plant.

Time Warner is not alone in its plans to use its cable plant for non-cable services. Cox has been tentatively awarded a pioneer's preference to establish the new PCS.⁵ The Commission awarded Cox the preference because of its development and demonstration of PCS/cable plant interface technology and equipment.⁶ Cox plans to use its cable television plant for connecting PCS microcells and to develop equipment capable of interfacing PCS microcells with copper, fiber and hybrid copper/fiber cable plant.⁷

The large players in the cable industry clearly intend to expand into telephone services as soon as they can build sufficient capacity and intelligence into their cable systems. Yet they want to limit rate regulation to a pro forma process that does no more than ask whether basic rates are within a broad zone of reasonableness defined by their average current prices.

If the cable companies' suggested form of regulation is accepted by the Commission without a provision to account for

⁵ Amendment of Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-213; RM-7140, RM-7175, RM-7618; PP-4 through PP-20, PP-26, PP-27, PP-41 through PP-70, PP-72 through PP-78; Tentative Decision and Memorandum Opinion and Order, released November 6, 1992; paras. 6, 12-18.

⁶ Id., para. 6.

⁷ Id., para. 12. It should be noted that Cablevision Systems, Time Warner and Comcast also sought preferences for PCS based on their use of cable plant.

joint and common costs, cable companies will be free to cross-subsidize competitive services by using the cable plants paid for by cable consumers. On the other hand, telephone companies will be required to allocate their joint and common costs and to comply with all other requirements that are part of the joint cost regulations for regulated and nonregulated services.

The Commission should look carefully not only at the current cable business but also at its future plans and prepare for the changes that are about to take place. Telephone companies want to compete fairly in both the cable and telephone business -- and that requires that regulations be symmetrical. The new Cable Act demands fairness when it requires that basic cable services pay only their share of joint and common costs of the underlying communications system. If cable systems and telephone systems are to be true competitors, fair and symmetrical regulations will be critical. The Commission's rate

regulations should take account of this whatever method of regulation it chooses.

Respectfully submitted,

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Date: February 11, 1993

Time Warner Plans Electronic 'Superhighway'

By JOHNNIE L. ROBERTS
And MARY LU CARNEVALE

Staff Reporters of THE WALL STREET JOURNAL

Time Warner Inc. plans to build an "electronic superhighway," a high-capacity, computerized network to deliver movies on demand, interactive games, home shopping and telephone services.

Proclaiming the effort as the dawning of a "brave new world," Time Warner Chairman and Chief Executive Gerald R. Levin said the company is building the first two-way system this year in suburban Orlando, Fla., and will switch it on in early 1994. And he indicated that Time Warner is talking with potential partners in high-technology industries to help launch its systems in cities nationwide where it has local franchises as well as overseas.

Time Warner's move is the most ambitious yet in a spate of recently announced plans by companies aiming to link cable television, telecommunications, computers and consumer electronics. But such companies as American Telephone & Telegraph Co., International Business Machines Corp. and the regional phone companies are said to be close behind as the industry giants scramble to form alliances to service the entertainment and communications needs of the interactive home of the future.

Even so, Time Warner's announcement is ominous for local phone concerns, particularly the Baby Bells. Phone companies stand to lose a substantial chunk of revenues and profits if cable operators can link business and residential customers directly to their long-distance carriers, bypassing local phone networks.

News of the Orlando network sent Bell company shares south. In New York Stock Exchange composite trading, Ameritech Inc. fell \$1.125 to \$73; Bell Atlantic Corp., 37.5 cents to \$52.50; BellSouth Corp., 12.5 cents to \$53.75; Nynex Corp., \$1.125 to \$84; Pacific Telesis Group, 50 cents to \$46.25; Southwestern Bell, \$1 to \$71.875; and U S West, 50 cents to \$38.50.

GTE Corp. slipped 12.5 cents to \$35.50. Time Warner dropped 50 cents to \$31.875.

With its move, moreover, Time Warner also thrust the cable industry into a growing debate over whether private industry or government should build a national "electronic superhighway" for data, an infrastructure improvement strongly backed by the new administration.

President Clinton and Vice President Albert Gore believe that such a superhighway is critical to improving the nation's competitiveness, the economy, health care and education. But in particular, Mr. Gore contends that private industry — even if in the unlikely event that it would make the risky investment to build the superhighway — would restrict access to it. A government-controlled system would be open to all users.

But Time Warner is "committed to building a private network," Mr. Levin said. He added that other data suppliers could have access.

Mr. Levin also emphasized that Time Warner's system isn't some futuristic vision. "I don't want to wait for the 21st century; we're going ahead and building," Mr. Levin said. "We aren't waiting for some test results. . . . This is not some experiment with people running around simulating."

Several weeks ago, cable-TV giant Tele-Communications Inc. made headlines with its plans to introduce digital compression technology that would provide 500 or more channels in the future. Time Warner's planned system would go beyond compression, the company emphasized. The company said it would be the first cable operator to deploy computerized, or digital, switching technology and computerized storage to hold libraries of movies and other "information."

Those two technologies will enable Time Warner to store in "digitized" form its vast libraries of movies, books and magazines as well as other information and to direct them, like a traffic cop, to customers who order such data.

"This clearly puts them at the forefront of technology trends in home entertainment and information delivery," said Edward J. Atorino of Salomon Brothers.

Time Warner officials said the company is seeking proposals from equipment suppliers for the gear necessary to build the system, which initially will operate in an area with about 4,000 residential customers. They didn't elaborate on how much it expects to charge consumers for its various services. And while company officials insisted the revenue potential from the new services would be substantial, some in the industry questioned what the level of demand would be — and whether it will be enough to support the large investments required to provide the offerings.

Securities analysts and industry executives said Time Warner's plans have profound implications for entertainment consumers and purveyors, and for industries that include retailing, real estate, education and financial services.

Time Warner officials said they are certain to provide video-on-demand early on through the "full service network." The first offerings also will include home shopping and interactive "video education services," such as interactive video games that allow subscribers in different homes to play each other on the network.

Signaling its intentions to compete against phone companies, the company also said it applied to the Federal Communications Commission for an experimental license to test personal communications services and to provide connections to long-distance carriers and picture phone services. Business customers will be offered video-conferencing and high-speed data transport.

Company officials noted that the telecommunications market totals \$80 billion in revenues today and projected it to double by the year 2000. Leading its efforts in telecommunications is former FCC commissioner Dennis R. Patrick, now president and chief executive of Time Warner Telecommunications.

With the cable television company's entry into telecommunications, local phone companies' revenues from long-distance carriers for completing calls could be significantly eroded. "Long-distance access is unquestionably the single most lucrative part of a Bell company's business," said Jack Grubman, an analyst with Paine Webber Inc. "It accounts for about 25% of their revenues and close to two-thirds of their profits."

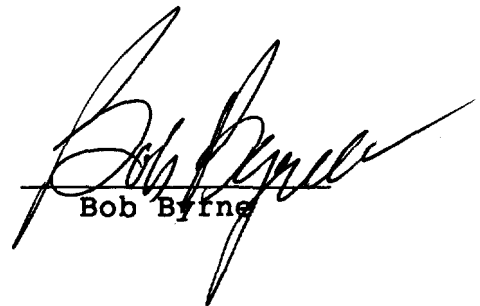
The phone companies, particularly the seven regional Bell companies, fear that regulatory and legal restrictions will exclude them from potentially lucrative markets for video-on-demand, interactive video and games and multimedia services that combine video, images, text, voice and music. "What's troubling to us is that Time Warner is able to do it, and we are not," said Tom Tauke, head of Nynex's Washington office and a former congressman from Iowa.

Local phone companies are barred under the 1984 Cable Act from providing cable services within their territories. Moreover, the consent decree that broke up the Bell System prohibits the seven regional Bell companies from offering long-distance services and from manufacturing telecommunications equipment.

Even if restrictions were lifted, local phone companies would have to invest an estimated \$200 billion or more to install fiber-optic lines and high-capacity switching equipment.

CERTIFICATE OF SERVICE

A copy of the foregoing reply comments from Pacific Companies regarding the FCC's proceeding for cable rate reregulation (MM Docket 92-266) was forwarded by first class mail today, February 11, 1993, to each of the parties in the accompanying listing.



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